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## FISCAL IMPACT REPORT

SPONSOR Grubestic DATE TYPED 2/19/05 HB \_\_\_\_\_

SHORT TITLE HMO Info Disclosure Exceptions SB 624

ANALYST Hanika-Ortiz

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Children, Youth & Families Department (CYFD)  
 Office of the Attorney General (AGO)  
 Human Service Division (HSD)  
 Department of Health (DOH)  
 Health Policy Commission (HPC)  
 Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 624 seeks to amend NMSA 59A-46-27, Confidentiality of Medical Information and Limitation of Liability, to achieve conformity with the privacy standard of the federal Health Insurance Portability and Accountability Act (HIPAA), requiring Health Maintenance Organizations (HMOs) to disclose confidential medical information only as authorized by federal or state statute or rule.

#### Significant Issues

The DOH reports federal HIPAA regulations require that health information be disclosed only under strict guidelines, including consumer authorization. State government agencies and other public and private health care delivery systems are required to comply with HIPAA. Individual employees of organizations may be fined or terminated from federal programs if health informa-

tion is inappropriately disclosed. HB 651 would allow disclosure only by federal or state statute or rule.

SB 624 makes clear that the federal HIPAA Privacy Rule applies to HMOs. HPC remarks that HMO's were required by federal law to limit access to protected health information and be subject to confidentiality disclosure rules provided under the privacy regulation by April of 2003.

The bill addresses some confusion that may currently exist on the part of HMOs as to whether a disclosure permitted under the HIPAA Privacy Rule, but not specifically addressed in the confidentiality provisions of the HMO Law, are allowed.

### **PERFORMANCE IMPLICATIONS**

The AGO notes the proposed amendment provides HMO's with a statutory directive to comply with the federal privacy rule. This obligation already exists, however there is no harm in clarifying the HMO's authority to disclose protected health information.

The HPC reports that under the current HIPAA rule, covered entities, including HMOs, are required to comply with state statutes for reporting of health information or hospital inpatient discharge data without patient authorization.

### **FISCAL IMPLICATIONS**

NFI

### **ADMINISTRATIVE IMPLICATIONS**

Since HMO's do not carry out all of their business within their agency, the privacy rule permits providers to disclose protected health information outside of the agency. The HMO must enter into a business associate agreement with other entities with which they do business. HMO's may disclose protected health information to another entity only to assist the HMO to carry out its health care functions.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicate of HB 651

### **TECHNICAL ISSUES**

None

### **OTHER SUBSTANTIVE ISSUES**

Senate Bill 624 would include the disclosure of health information by federal or state statute or rule, in compliance with HIPAA regulations. Every citizen in New Mexico receiving health care services must sign a disclosure statement with regard to release of health information. Under certain circumstances, health information may be required for review by the health provider, particularly when there is pending litigation or other unusual circumstances. HB 651 would allow disclosure by federal or state statute or rule in addition to the current allowances, such as the extent that may be necessary to carry out the purposes of a HMO or upon consent of the enrollee or

applicant. SB 624 would support the ability of organizations to obtain health information within current HIPPA regulations, including HMOs.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Proposed language does not add any protections beyond what is currently guaranteed under federal law.

**ANA/yr**